



Revenue and Taxation Interim Committee

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56th Montana Legislature

SENATE MEMBERS

JON ELLINGSON, VICE CHAIR
VICKI COCCHIARELLA
BOB DePRATU
WM. E. "BILL" GLASER
FRED THOMAS
MIGNON WATERMAN

HOUSE MEMBERS

CHASE HIBBARD, CHAIR
RON ERICKSON
DAN W. HARRINGTON
ROGER SOMERVILLE
ROBERT R. STORY JR.
EMILY SWANSON

COMMITTEE STAFF

JEFF MARTIN
RESEARCH ANALYST
LEE HEIMAN
STAFF ATTORNEY
JOANN JONES
SECRETARY

MINUTES

Department of Public Service Building
Helena, Montana
December 10, 1999

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

COMMITTEE MEMBERS PRESENT

Rep. Chase Hibbard, Chair
Sen. Jon Ellingson, Vice Chair

Sen. Vicki Cocchiarella
Sen. Bob DePratu
Sen. Wm. E. "Bill" Glaser
Sen. Fred Thomas
Sen. Mignon Waterman

Rep. Ron Erickson
Rep. Dan W. Harrington
Rep. Robert R. Story, Jr.
Rep. Emily Swanson

COMMITTEE MEMBERS EXCUSED

Rep. Roger Somerville

STAFF PRESENT

Jeff Martin, Research Analyst
Lee Heiman, Attorney
Jo Ann Jones, Secretary

VISITORS

See Visitors' Register, Attachment #1.

COMMITTEE ACTION

C Approved the minutes of the September 23, 1999, meeting.

CALL TO ORDER AND ROLL CALL

Rep. Hibbard called the meeting to order at 8:09 a.m. Roll call was noted, See Attachment #1.

Rep. Hibbard asked if there were any corrections or additions to the minutes of the September 23 meeting. Hearing none, he declared the minutes approved.

INTRODUCTION OF MARY WHITTINGHILL

Rep. Hibbard introduced Mary Whittinghill, the new president of the Montana Taxpayers Association.

Ms. Whittinghill said that she has been asked to increase the Association's membership and to take a more important role in the formulation of tax policy.

HOUSING TRUST FUNDS

Exhibit #1: Revenue Sources for Housing Trust Funds, A guide to Revenue Sources for a Montana Housing Trust Fund, and A Status Report on Housing Trust Funds in the United States

Jeff Martin, staff, discussed Exhibits #1 and #2.

Sen. Cocchiarella said that she had listened to a radio program where the amount of money saved by providing housing instead of allowing homelessness was discussed. She said that she would like more information on that topic.

Rep. Erickson said that he had recently attended a planning board meeting where housing trusts and their usefulness in designing a program of smart growth were discussed. He said the Legislature should be exploring housing trusts and that he has the sense that there will be bi-partisan support and support from real estate and development people.

Rep. Hibbard asked if Mr. Martin had any information on unfunded loan programs. Mr. Martin said legislation for a revolving loan program was enacted last session. The bill originally provided a \$2 million general appropriation, but that provision was later removed and replaced by a revenue source from gifts and grants. He said that he believes the fund to be inactive and that administrative rules haven't yet been developed for it.

Sen. Thomas asked if Mr. Martin had statistics in regard to home ownership in Montana. Mr. Martin said that information is available, but he had concentrated primarily on revenue sources in preparing his background report.

Rep. Swanson asked what federal funds are available, and said that HRDC in Bozeman builds low income homes. She said the funding is complex and it involves federal money. Mr. Martin said one of the goals of a housing trust fund is to leverage federal and private dollars. He said that approximately \$4 in federal and private money is leveraged for every \$1 placed in a housing trust fund.

Sen. Cocchiarella said that federal money is available through HUD. Rep. Swanson said that HUD money for low income apartment buildings is being phased out.

Sen. Waterman said the Governor's Task Force did some of the background research, and the idea of a housing trust fund is to meet a need where federal funding is decreasing.

Sen. Thomas said that last session, Sen. Bohlinger had introduced legislation dealing with the issue, and has already requested legislation for the 2001 session. He said that Sen. Bohlinger was intrigued with a Michigan law that created a partnership with Habitat for Humanity. He said that he thinks it would be helpful if Sen. Bohlinger's efforts were tracked.

Rep. Hibbard said that was an excellent idea, and asked for Committee comment on whether to pursue the issue.

Rep. Swanson said Karen Roberti from Bozeman would be an excellent source of information. Sen. Waterman said there is an active task force in Helena, too. Sen. Ellingson said that he would like to hear from the real estate industry to determine their level of support.

Rep. Erickson said Colin Bangs from Missoula is a realtor who is very interested in this issue, and is also very knowledgeable about affordable housing issues.

Sen. Waterman said Byron Roberts would be an excellent source of information for the building industry.

Sen. Thomas said that, although this is an important issue, it should be left in Sen. Bohlinger's hands and placed at the bottom of the Committee's priority list because it does not conform with the purpose of the Committee.

Rep. Hibbard said the Committee could serve as a forum. He said it is not within the Committee's purview to spend a lot of time on the issue, but would plan to have the issue discussed at one more meeting.

Sen. Waterman said that she would like to keep open the opportunity for Committee endorsement of any proposed legislation.

DEPARTMENT OF REVENUE

Exhibit #2: Presentation to the Revenue & Taxation Committee

Exhibit #3: Request for Department Information

Neil Peterson, Customer Service Center (CSC) Process Leader, DOR, and Don Hoffman, Compliance, Valuation and Resolution (CVR) District 1 Process Leader, DOR, discussed DOR's structural re-alignment.

Sen. Cocchiarella asked if front-line employees were involved in making departmental changes. Mr. Peterson said that teams were set up and employees from around the state volunteered to assist in process development. He said that customers were also involved when the DOR conducted four focus group sessions.

Sen. Cocchiarella said that she has heard complaints about liquor licensing, and asked who is actually responsible for decision-making. Mr. Peterson said that the call center concept is based on the idea that most of the questions are general in nature and can be answered by customer service representatives. He said that if the question involves a specific case or issue, the call is transferred to business experts and licensing specialists.

Sen. Cocchiarella said that she has received the impression that departmental streamlining benefited the employees instead of the customers. She said that she has also received comments from DOR employees that they had no voice in the changes

that were made. She asked who assigns the grades on the customer service score cards . Mr. Peterson said meaningful measurements were developed and that surveys are attached when an information packet is mailed out so the DOR is also attempting to involve the customers in grading its performance.

Sen. Cocchiarella asked if legislators can review the score cards. Mr. Peterson replied that legislators can definitely review them.

Mr. Hoffman said a stakeholder advisory group that included some legislators was created and will be continued. He said the group will provide feedback on the department's performance. He commented that they are trying to change a department that hasn't undergone significant change in 25 years, and that is a slow process.

Rep. Swanson asked for comment on the concern that local control for property tax collection is being usurped. Mr. Hoffman said the POINTS project builds the capability to collect taxes for local governments, but stated that the counties will be invited, not forced, to join. Mr. Peterson said that Phase I allows the generation of bills and that functionality will be continued in Phase II. He said the DOR has the ability now to do billing for local governments, and that it may be a problem in communication in regard to its purpose. He said that he has received positive feedback from local governments, too.

Rep. Harrington said that his county treasurer has concerns that moving in this direction will ultimately result in county treasurers being replaced. Mr. Peterson said that counties may participate on a strictly voluntary basis, but he will never advocate that the DOR will take over the functions of county treasurers.

Sen. Cocchiarella said that local governments want everything (computer systems, information) from the state, but don't always want to give back.

Rep. Swanson said the issue of local control is going to get bigger and more severe.

Rep. Story asked how the DOR computer systems are performing. Mr. Hoffman said they had some conversion problems with POINTS but the problems are now resolved and they are within budget. He added that they are also within the timelines for Phase II.

Sen. Thomas asked about funding for Phase II. Mr. Hoffman said there is \$18 million for Phase II and it is believed that the systems can be brought on-line for that. Sen. Thomas asked what the new systems do. Mr. Hoffman said the new systems replaced the old legacy systems that were not Y2K compliant. He said the old systems were functionally isolated and the new systems allow for much more interaction.

Rep. Swanson asked if it can be determined if a property owner also pays income taxes. Mr. Hoffman said that it has to be done manually now, but it will eventually be done electronically.

Rep. Hibbard asked if local governments or other departments pay the DOR to collect debts for them. Mr. Peterson said the rates are based on the transaction, not the amount collected.

Rep. Story asked what other governmental entities is the DOR making collections for. Mr. Peterson said they will begin making restitution collections for the Department of Corrections in Butte-Silver Bow County, property tax collections for Ravalli County, and will also do some collections for court systems. He said that every time a warrant is issued by the Department of Administration, it will be checked against outstanding

debts. The warrant will be confiscated unless the intended recipient can shown that the debt is not owed.

Rep. Swanson asked how one-stop licensing is being expanded. Mr. Peterson said one-stop licensing originally involved convenience and grocery stores, but is now expanded to anyone who needs those types of licenses.

Sen. DePratu asked if there are trends in cigarette tax collections to demonstrate whether smoking is decreasing. Judy Paynter, DOR, checked and reported back that, nationally, tobacco revenue has been decreasing. In Montana, however, actual tobacco tax collections are 14 per cent above last year at this time.

Sen. Thomas asked when aggregated data will be on-line. Mr. Hoffman said that personal income tax data is scheduled to appear on-line in January 2001, and property tax data is scheduled for July 2001.

Sen. DePratu asked if data is cross-matched to identify deadbeat parents. Mr. Peterson said new hire data is collected and provided to the Child Support Enforcement Division.

Sen. DePratu asked if employers have been commenting on having to provide information on new hires. Mr. Peterson said that he has received no comments, probably because the form is simple and can be mailed or faxed.

Sen. Waterman said that some city and county officials may be encountering difficulties in interpreting new tax legislation when determining debt limits, and asked if the new system can help them. Ms. Paynter said the problems that they are having are probably more in interpretation of the law than a need for data. She said that less confusion than expected has been encountered, so it appears that the new DOR

structure has helped. Sen. Waterman said that one of the specific concerns involved overlapping districts.

Rep. Harrington suggested that the DOR report on the effects of SB 184 at the next Committee meeting. Ms. Paynter said that a report is expected to be issued on Monday, but would report on it at the next meeting as well.

Rep. Hibbard opened the floor for public comment on activities of the DOR.

Susan Miller, Jefferson County Treasurer, and member of the Montana County Treasurer's Association, said she and other local government representatives would make themselves available for Committee questions. She asked if the DOR is collecting past or current debt for Ravalli County. Mr. Peterson said that it was past debt. Ms. Miller asked if the cost is charged as an additional fee to the taxpayer or if it is taken from the collected tax money. Mr. Peterson said how the fee is paid is determined by the county. Ms. Miller said whether a local government can legally impose a surcharge may be an issue for later discussion. She said the counties collect a lot of state revenue and asked if the counties charge the state for that service. Ms. Paynter said that sometimes there is a 2 or 3 per cent administrative fee taken from the top. Ms. Miller said another question for discussion is whether the state can legally charge counties for collection fees.

Sen. Waterman asked if there is uniform feeling among county treasurers about the process or their working relationship with the DOR. Ms. Miller said that county treasurers feel local government is very important to the public and that they work with the DOR because that is how they receive the taxable valuations. She said there is some confusion about the flow of information because some local systems do not interact with the state systems; however, both entities can generate written reports

for the other. She said that county treasurers like to see tax money collected locally and fear that the DOR will attempt to take over their duties.

Sen. Thomas asked for Ms. Miller's comments on the collection of old debts in Ravalli County. She said that the benefit is that the county does not have to go to the expense of collecting old debts by going door to door, but that she hopes that the County Commission would never agree to let the DOR collect current tax collections.

Sen. Thomas asked who is responsible for following up on tax collections. Ms. Miller said the County Treasurer and the Sheriff's Office, with County Commission approval. Sen. Thomas asked if the County Commission has the authority to contract with the DOR for that service and Ms. Miller replied that she believes the Commission does have that authority.

WEFA PRESENTATION

Exhibit #4: The US Economy New Millennium Opportunities and Risks

Dr. Andrew Hodge, Sr. Vice-president of US Macro and Financial Markets, WEFA (nee Wharton Econometrics), discussed Exhibit #4.

Sen. Ellingson asked what kinds of assumptions led to the re-calculation of income. Dr. Hodge said it is attributable to the re-classification of savings categories, and the key item was a more accurate calculation of reported income estimates.

Sen. Ellingson said one comment on economic growth in the 1990s has been that the gains have gone to a very narrow category of recipients, and asked why adjusted family income is barely ahead of what it was in 1974. Dr. Hodge said the unemployment rate has declined to where almost anyone who wants a job can find one, so that has been a gain. He said that although inequalities are still a problem, the situation has improved for the lowest sectors of the economy.

Sen. Ellingson asked what factors are responsible for the decline of employment compensation. Dr. Hodge said the key items are high unemployment and a slack economy.

Rep. Harrington asked for comment on the Administration's announcement that oil reserves may be released to the marketplace if the price of crude oil remains high. Dr. Hodge said that the stability such a move would provide would help avert panic that would drive the prices even higher.

Rep. Erickson said that Montana tax policy links wages and salaries to decreasing business equipment taxes, and asked why Dr. Hodge believes that compensation needs to rise. Dr. Hodge said a way to increase the national saving rate must be found so that the excess consumption rates can be decreased.

Sen. Thomas asked if government benefits are considered part of individual income. Dr. Hodge said that it appears as a government expenditure, not as consumption.

Sen. Thomas asked why Europe is experiencing economic recovery, but not Latin America. Dr. Hodge said that European countries have pursued more conservative economic policies and lower import rates. He said their labor markets are more restrictive and less flexible.

Rep. Story asked if employee wage growth will include a higher percentage rate of growth at the lower end of the Montana income level. Dr. Hodge said there will be a tighter market at the low end, resulting in short-staffing and possibly higher prices in service-related industries. He said that even states with very low inflation rates are experiencing systematic rises in wages.

Rep. Story asked if the growing price of energy will curtail economic expansion. Dr. Hodge said that it will have less impact than it has in the past unless energy prices rise to extremely high levels.

Rep. Story asked if the growth of the Internet economy will improve the efficiency of the distribution system. Dr. Hodge said that there is a tremendous amount of fat in distribution systems and a lot can be paid for direct delivery and there would still be savings.

Sen. Waterman said that she believes a rural state will experience more impact for Main Street businesses. Dr. Hodge said that was true for states that have less manufacturing production than others.

Rep. Hibbard said national trends, such as decline of the dollar against foreign currency, may not only be anomalies in Montana, but may also be good for Montana because it is a commodity state. Rep. Hibbard asked how Dr. Hodge's remarks pertain to Montana. Dr. Hodge said that Montana and the rest of the mountain states will achieve above average growth. He predicted a decline in the housing sector and that inflation will be commensurate with the national average.

DEPARTMENT OF REVENUE TAX POLICY REPORTS

Exhibit #5: Tax Legislation Passed by the 56th Legislative Assembly: An Assessment of Conformity With Guiding Principles of Taxation

Exhibit #6: Tax Legislation Passed by the 56th Legislative Assembly: Implications for Future Tax Policy

Exhibit #7: Capital Investment and General Economic Development Indicators

Larry Finch, DOR, presented Exhibits #5 and #6.

Rep. Story said the original DOR reports said the system was unbalanced because it relied on property and income taxes, and that legislation from the 1999 legislative session created more of an imbalance, and asked if that was a correct assessment. Mr. Finch said that it was.

Sen. Ellingson said whether the reduction of business equipment tax will produce the desired results has not yet been determined. Sen. Thomas commented that to do nothing would have caused backsliding.

Ms. Paynter discussed Exhibit #7 and said that the DOR would like Committee input on economic indicators by February 4, 2000.

Rep. Story asked for an example of the industrial segment. Ms. Paynter said the category includes mining, agriculture, and manufacturing.

Rep. Swanson said the listed factors tend to be tied to property, and asked if there are other factors for examination in income tax. Ms. Paynter said they would examine that possibility.

Rep. Story asked if only heavy industries were included in class 8 property. Ms. Paynter said no, that all of class 8 property would be tracked.

Sen. Waterman asked if there are any economic indicators for small businesses after the business equipment tax is eliminated. Ms. Paynter said there would be no method to track small businesses after payment of the business equipment tax is no longer required.

Sen. Glaser said that tax policy that was changed by legislation in 1999 should be presented in more palatable, easy to understand form.

MONTANA POWER UPDATE

Mike Pichette, Montana Power Company (MPC), said the closing for the sale of generation assets is scheduled for next week and, until the sale is closed, there is nothing to report that hasn't already been disclosed. He said that MPC has made quarterly tax deposits that are nearly double for that of a normal year. He said there will be additional revenue figures available later due to sale of property to Oregon companies.

Sen. Glaser asked if MPC has been able to shelter some money. Mr. Pichette said no, because the generating properties sold for more than book value, which didn't result in stranded costs, so the proceeds have to be returned to the consumer.

Rep. Story asked if the tax payments will be pushed into 2000 if the sale isn't accomplished until after January 1, 2000. Mr. Pichette said he didn't know if that would be true.

POSSIBLE ADVERSE IMPACT OF COURT DECISION ON HB 260

Exhibit #8: Impact of Court Decision on HB 260

Terry Johnson, Principal Fiscal Analyst, Legislative Fiscal Division (LFD), discussed Exhibit #8.

MONTANA TRANSPORTATION COMMISSION PRESENTATION

Exhibit #9: Montana Transportation Commission Structure, Authority and Process

Thom Forseth, President, Montana Transportation Commission (MTC), discussed Exhibit #9.

Sen. Waterman said that she was concerned that the MTC commissioner appointed to satisfy the legal requirement of having someone familiar with Native American transportation issues and culture would create the situation that one district would

always have to fulfill that requirement. Mr. Forseth said that three commissioners are appointed at one time so it could vary.

Rep. Swanson asked if the MTC is involved in the projects that the counties apply for from the Montana Department of Transportation (MDT). Mr. Forseth said the decisions on those projects is made locally but some are approved, and some are rejected.

Sen. Waterman said that one concern she has heard expressed is that CTAP funds are not as creatively used as they are in other states, and asked if there has been a review of that issue. Mr. Forseth said the state wants the local governments to decide what they felt was a good project but, in other states, only the Department of Transportation made those determinations.

Sen. Cocchiarella asked how citizens can influence decisions in regard to projects that are undertaken. Mr. Forseth said the project timeline is usually three to five years and there are public hearings and meetings during that process. He said a citizen must first communicate concerns to the MTC but should remember that when a project is moved up on the prioritization list, that means another project must be moved down.

Rep. Erickson said that he had attended an MTC meeting and felt that the way the meeting is conducted could be intimidating for the average citizen. Mr. Forseth said they attempt to be friendly and approachable and it is not their intention to intimidate.

Sen. Waterman said that when the MTC members and MDT staff are all seated around the same table, it is difficult to know who is on the MTC and who is staff.

MONTANA DEPARTMENT OF TRANSPORTATION

Exhibit #10: Montana Rest Area Plan

Exhibit #11: Federal-aid Program Oversight by MDT - Formal Update

Exhibit #12: Proposed Amendments to Administrative Rules Regarding Contractor Suspension

Exhibit #13: Due Process Question in Suspension of DOT Bidder

Sen. Cocchiarella asked if the MDT has issued letters in which the term "police powers" was used. Steve Garrison, MDT staff attorney, said not in relation to projects, but probably in relation to access management, and that it is a recognized legal term. Sen. Cocchiarella said that she had seen a letter received by one of her constituents in which that term was used and registered her outrage that a term with such negative connotations should be used in correspondence issued from a state agency. Mr. Dye said that he would never condone the usage of that term, and Mr. Garrison said that he would instruct staff attorneys not to use that term in future correspondence with citizens.

Sen. Glaser asked if there was a timetable to upgrade restroom facilities. Mr. Dye said the MTC approved a plan to replace restroom equipment on December 9. He said the issue of cleaning is now being worked on and said that negotiate an enforceable contract for cleaning is difficult.

Rep. Story said a concern was raised at the previous MTC meeting that people in the field don't have decision-making authority. Mr. Dye said that the MDT has given more authority at lower levels so that decisions can be made quickly.

Rep. Hibbard said that he is struggling with the Committee's scope for oversight of the MDT, and would like to appoint a subcommittee to determine oversight responsibility. Sen. Waterman said that the subcommittee should deal with the DOR, too.

After discussion, Rep. Hibbard appointed Rep. Harrington (chairman), Rep. Hibbard, Sen. Glaser and Sen. Cocchiarella to the subcommittee.

Rep. Swanson recommended that the next Committee meeting be a two-day meeting.

In regard to proposed amendments to the administrative rules dealing with the suspension of contractors, Sen. Thomas said that he would like to voice his opposition to the clause that the decision of the MTC is final and not appealable to a court of law. (See Exhibit #12)

Mr. Garrison said that, according to Montana statute, the decision of a quasi-judicial board, such as the MTC, cannot be litigated.

Rep. Story asked Mike Foster, Executive Director, Montana Contractor's Association, for his comments on the proposed rule change. Mr. Foster said that he had not had time to study it but his initial reaction is that the immediate departmental response to an alleged violation is a suspension, which deprives the contractor of the right to conduct any work. He said the non-appealable clause is also troubling. He said that he is certain the Association and contractors will respond with their comments on the proposed amendment.

Sen. DePratu said the attempt is being made to make government communicate with citizens in a more pleasing manner, and possibly government should operate more like a business in that regard.

Sen. Thomas expressed appreciation for the MDT's quick response to the issue that was raised at the September meeting.

Mr. Dye said the interests of the taxpayer must be protected, too, and the suspension of a contractor has been done only once in the MDT's history. He said that it is used only when an infraction appears to be so severe that work must be stopped so that it can be investigated.

Sen. Ellingson said the proposed amendment is in its first stages and there will be public hearings and discussion before it is adopted.

ADMINISTRATIVE RULE REVIEW

Lee Heiman, staff attorney, discussed Committee duties in regard to review of proposed administrative rules. After discussion, it was determined that Mr. Heiman will bring potentially troublesome rules to the Committee's attention, and that members can bring issues to the attention of the Committee chairman or Mr. Heiman.

DEBT LIMIT SUBCOMMITTEE

Mr. Martin said that the Debt Limit Subcommittee had met on December 9 and had decided to pursue research into using market value instead of taxable value to determine debt limits. He said the general fund will be used as an indicator of debt limitation.

Rep. Story said that problems with debt limits occur mainly in small taxing jurisdictions.

INSTRUCTIONS TO STAFF

Identified topics for the next agenda include an update from the Environmental Quality Council on its eminent domain study, a follow-up on revenue estimating functions, a report from the LFD on TY 1999 collections, implementation of revised utility generation taxes, and issues involving the MDT.

Sen. Waterman requested that the departments begin to alert the Committee of any legislation that they intend to propose.

Rep. Harrington asked if a revenue estimating resolution must be prepared in advance of a special session, if one is called. Mr. Martin said that state law requires one be prepared prior to a regular session but, historically, one has been prepared for special session if it is called because of a revenue shortfall.

Rep. Story recommended that the DOR and LFD be told to work together and develop a schedule for release of data so that the revenue estimating resolution can be completed in a timely manner.

ADJOURNMENT

After discussion, it was determined that Committee workload indicates that regular meetings be held on two days instead of one. The next meeting will be February 17 and 18, 2000.

Rep. Harrington moved to adjourn the meeting. The meeting adjourned at 5:50 p.m.

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